

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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BRANCH BANKING AND TRUST
COMPANY, a North Carolina banking
corporation,

Plaintiff,

V.

D.M.S.I. L.L.C., a Nevada limited-liability company; YOEL INY; NOAM SCHWARTZ; Yoel Iny, Trustee of the Y&T Iny Family Trust; NST HOLDING, INC., Trustee of the NS 1998 Family Trust; and DOES 1 through 10, inclusive,

Defendants.

Case No. 2:11-cv-01778-APG-VCF

Order Denying Reconsideration and Denying Motion for Attorney Fees

(Dkt. ##131, 133)

14 Defendants filed a motion (Dkt. #131) asking me to reconsider my September 26, 2014
15 order (Dkt. #128) granting Plaintiff's motion for summary judgment. "Reconsideration is
16 appropriate if the district court (1) is presented with newly discovered evidence, (2) committed
17 clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in
18 controlling law." *Henry v. Rizzolo*, No. 2:08-CV-00635-PMP, 2010 WL 3636278, at *1 (D. Nev.
19 Sept. 10, 2010) (internal citations and quotation marks omitted). Defendants have not met this
20 burden. Therefore, reconsideration is not warranted.
21

In response to the defendants' motion, Plaintiff filed a motion seeking a sanction in the form of an award of its attorneys' fees incurred in connection with the motion. (Dkt. #133.) The actions of Defendants' counsel in filing the motion to reconsider do not rise to the level of sanctionable conduct under 28 U.S.C. §1927. Thus, sanctions are not warranted. Plaintiff may,

1 however, seek to recover its incurred fees and costs as part of a later motion for fees and costs
2 incurred in connection with this lawsuit, should such a request be permitted by contract or statute.

3 IT IS THEREFORE ORDERED that Defendants' motion to reconsider (**Dkt. #131**) is
4 **DENIED.**

5 IT IS FURTHER ORDERED that Plaintiff's motion for attorneys' fees (**Dkt. #133**) is
6 **DENIED.**

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8 DATED this 27th day of August, 2015.

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11 Andrew P. Gordon
12 United States District Judge

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